
SUPPLEMENTAL MATERIAL
NOVEMBER 25 2003
CITY COMMISSION MEETING

SUPPLEMENTAL MATERIAL

C7 - Resolutions

- C7V A Resolution Accepting The City Manager's Recommendation Of Arthur J. Gallagher And Co., As The City's Broker Of Record For Property And Liability Insurance, And Authorizing The Administration To Enter Into Negotiations With Arthur J. Gallagher And Co., And If Negotiations Are Successful, Authorizing The Mayor And City Clerk To Execute An Agreement With Arthur J. Gallagher, Pursuant To Request For Proposals (RFP) No. 61-02/03, For The Purpose Of Obtaining Insurance Coverage, As Needed By The City For An Annual Amount Not To Exceed \$25,000.

(Risk Management)

(Resolution)

- C7X Agreements With The Senior Citizens Housing Development Corporation.

1. A Resolution Approving The Business Terms Of A Lease Agreement With The Senior Citizens Housing Development Corporation Of Miami Beach, As Lessor, For The Lease Of The Rooftop, Located At Council Towers North, 1040 Collins Avenue, Miami Beach, Florida, For The Purpose Of Constructing A South End Radio/Antenna Site To House The City's Public Safety Communications System; Said Lease Agreement, At The Rate Of Twelve Thousand Dollars (\$12,000) Per Year, For FY 2003-FY 2004; Including Annual Increases Of 3% Or The CPI-U, Whichever Is Less; With The Entire Rent To Be Waived If Conditions Of The Use Agreement Between The City And Senior Citizens Housing Development Corporation Of Miami Beach, As Approved Pursuant To Resolution No. _____ Are In Force; Said Lease Having An Initial Term Of Ten (10) Years, With A Ten (10) Year Renewable Option, At The End Of The Initial Term; Said Lease Agreement Subject To Pending Federal Communications Commission (FCC) Site Approval; And Further Authorizing The Administration And The City Attorney's Office To Negotiate Said Lease Agreement With Senior Citizens Housing Development Corporation Of Miami Beach And Authorizing The Mayor And City Clerk To Execute Same.
2. A Resolution Approving The Business Terms Of A Use Agreement With The Senior Citizens Housing Development Corporation Of Miami Beach For The Use Of Portions Of The City-Owned Parking Lots Located At 540 Collins Avenue (Beneath Council Towers South) And 1040 Collins Avenue (Beneath Council Towers North), Miami Beach, Florida, To Allow For The Installation Of A Security Gate And Fence And Provide Landscaping And Maintenance Related To Same, And Insurance And Indemnity Covering The Use Area; Said Use Agreement For An Initial Term Of Ten (10) Years, With A Ten (10) Year Renewable Option; And Further Authorizing The Administration And The City Attorney's Office To Finalize Said Use Agreement With The Senior Citizens Housing Development Corporation Of Miami Beach, And Authorizing The Mayor And City Clerk To Execute Same.

(Economic Development)

(Resolutions)

R7 - Resolutions

- R7B A Resolution Authorizing The Mayor And City Clerk To Execute The Letter Of Intent Negotiated Between The City Of Miami Beach, The Miami Beach Redevelopment Agency And RDP Royal Palm Hotel Limited Partnership ("RDP") And Further Authorizing The Preparation Of The Closing Documents To Reflect The Terms Outlined In The Letter Of Intent. **Joint City Commission and Redevelopment Agency**
(City Manager's Office)
(Resolution)
- R7C A Resolution Following A Duly Noticed Public Hearing On November 25, 2003, Authorizing And Approving The Proposed Uses Of The Local Law Enforcement Block Grant Funds, In The Amount Of \$264,484.
(Grants Management)
(Resolution)

R9 - New Business and Commission Requests

- R9F Charter Review Board Proposed Amendments To City Charter - Resolutions Proposing March 9, 2004 City Of Miami Beach Special Election.
(City Attorney's Office)
(Additional Material)

Redevelopment Agency Item

3. NEW BUSINESS

- B A Resolution Of The Chairman And Members Of The Miami Beach Redevelopment Agency Authorizing The Chairman And Secretary To Execute The Letter Of Intent Negotiated Between The City Of Miami Beach, The Miami Beach Redevelopment Agency And RDP Royal Palm Hotel Limited Partnership ("RDP") And Further Authorizing The Preparation Of The Closing Documents To Reflect The Terms Outlined In The Letter Of Intent. **Joint City Commission and Redevelopment Agency**
(Resolution)

RESOLUTION NO. _____

A RESOLUTION OF THE MAYOR AND CITY COMMISSION OF THE CITY OF MIAMI BEACH, FLORIDA, ACCEPTING THE CITY MANAGER'S RECOMMENDATION OF ARTHUR J. GALLAGHER AND CO., AS THE CITY'S BROKER OF RECORD FOR PROPERTY AND LIABILITY INSURANCE, AND AUTHORIZING THE ADMINISTRATION TO ENTER INTO NEGOTIATIONS WITH ARTHUR J. GALLAGHER AND CO., AND IF NEGOTIATIONS ARE SUCCESSFUL, AUTHORIZING THE MAYOR AND CITY CLERK TO EXECUTE AN AGREEMENT WITH ARTHUR J. GALLAGHER, PURSUANT TO REQUEST FOR PROPOSALS (RFP) NO. 61-02/03, FOR THE PURPOSE OF OBTAINING INSURANCE COVERAGE, AS NEEDED BY THE CITY FOR AN ANNUAL AMOUNT NOT TO EXCEED \$25,000.

WHEREAS, the City of Miami Beach Risk Management Program consists of both self-insured and insured programs depending on the type of exposures; and

WHEREAS, the City requires that the selected Broker/Agent provide, at a minimum, the following services:

1. Provide assistance to the City's Risk Manager in determining the City's commercial insurance needs;
2. Prepare reports informing the City's Risk Manager regarding insurance market conditions that may affect the City's policies and risk exposures prior to policy renewal;
3. Prepare bid specifications and underwriting data (subject to the approval of the City's Risk Manager) to submit to acceptable insurance markets for the purpose of obtaining quotations for insurance coverage;
4. Upon direction from the City, approach all acceptable insurance companies on behalf of the City, and obtain written, competitive quotes for insurance coverage. A complete list of the companies contacted, along with their response, must be submitted;
5. Present to the City all insurance coverage proposals obtained. This report must contain a comprehensive analysis by the broker of the proposals obtained with recommendations for the selection of one proposal for the particular risk to be covered;
6. Negotiate, on behalf of, and with direction from, the City with all insurance carriers to obtain the best prices, terms and conditions available;

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Date 11-25-03

7. Review all insurance policies and invoices received for policies purchased by the City to assure their accuracy and appropriateness;
8. Review and evaluate existing City policies to provide recommendations for possible improvement of price, terms, and conditions;
9. Service existing policies as necessary. This includes but is not limited to, issuing certificates of insurance to provide evidence of coverage, promptly making policy changes, and obtaining endorsements;
10. Report any claims to the insurance carrier and monitor the handling and disposition of the claim to assure the City's policy rights are protected;
11. Provide an annual report summarizing all insurance coverage in place, anticipated market conditions, recommendations and strategies; and

WHEREAS, a Request for Proposal (RFP) was issued on August 12, 2003, with an opening date of October 15, 1999. Eleven (11) specifications were issued, resulting in the receipt of proposals from the following two (2) firms:

1. Arthur J. Gallagher and Co.
2. The Aon Group; and

WHEREAS, The Aon Group was deemed non-responsive for failure to provide their company's annual financial report and a list of insurance companies used for placement and premium volume for the past three years; and

WHEREAS, Letter to Commission (LTC) No. 233-2003, appointed the following individuals to serve as members of the Evaluation Committee for RFP No. 61-02/03 – Broker of Record (the "Committee"):

Cliff Leonard, Risk Manager
Georgina Echert, Assistant Director, Finance Department
Judy Weinstein, Assistant City Attorney
Joe Pallant, Resident and Insurance Professional
Ron Stone, Resident and Insurance Professional; and

WHEREAS, the Committee convened on November 4, 2003, and discussed the following:

- Cone of Silence requirements and Government in the Sunshine Laws.
- Project overview (i.e., scope of services).
- Evaluation process and committee decision; and

WHEREAS, the Committee unanimously agreed that Gallagher's proposal is excellent considering their wealth of experience and qualifications when compared to their proposed annual fee of \$25,000, which is **guaranteed for 4 years**; and

WHEREAS, Gallagher has more hands-on experience (more than 26 years) with governmental insurance programs than any other broker in the country; and

WHEREAS, the City Manager concurs with the evaluation committee's recommendation.

NOW, THEREFORE, BE IT RESOLVED BY THE MAYOR AND CITY COMMISSION OF THE CITY OF MIAMI BEACH, FLORIDA, accept the City Manager's recommendation of Arthur J. Gallagher and Co., as the City's Broker of Record for property and liability insurance, and authorizing the Administration to enter into negotiations with Arthur J. Gallagher and Co., and if negotiations are successful, authorizing the Mayor and City Clerk to execute an agreement with Arthur J. Gallagher, pursuant to Request for Proposals (RFP) No. 61-02/03, for the purpose of obtaining insurance coverage, as needed by the City for an annual amount not to exceed \$25,000.

Passed and adopted this _____ day of _____, 2003.


ATTEST:

CITY CLERK

MAYOR

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APPROVED AS TO
FORM & LANGUAGE
& FOR EXECUTION



City Attorney

11/24/03

Date

RESOLUTION NO. _____

A RESOLUTION OF THE MAYOR AND CITY COMMISSION OF THE CITY OF MIAMI BEACH, FLORIDA, APPROVING THE BUSINESS TERMS OF A LEASE AGREEMENT WITH THE SENIOR CITIZENS HOUSING DEVELOPMENT CORPORATION OF MIAMI BEACH, AS LESSOR, FOR THE LEASE OF THE ROOFTOP, LOCATED AT COUNCIL TOWERS NORTH, 1040 COLLINS AVENUE, MIAMI BEACH, FLORIDA, FOR THE PURPOSE OF CONSTRUCTING A SOUTH END RADIO/ANTENNA SITE TO HOUSE THE CITY'S PUBLIC SAFETY COMMUNICATIONS SYSTEM; SAID LEASE AGREEMENT, AT THE RATE OF TWELVE THOUSAND DOLLARS (\$12,000.00) PER YEAR, FOR FY2003-FY2004; INCLUDING ANNUAL INCREASES OF 3% OR THE CPI-U, WHICHEVER IS LESS; WITH THE ENTIRE RENT TO BE WAIVED IF CONDITIONS OF THE USE AGREEMENT BETWEEN THE CITY AND SENIOR CITIZENS HOUSING DEVELOPMENT CORPORATION OF MIAMI BEACH, AS APPROVED PURSUANT TO RESOLUTION NO. _____ ARE IN FORCE; SAID LEASE HAVING AN INITIAL TERM OF TEN (10) YEARS, , WITH A TEN (10) YEAR RENEWABLE OPTION, AT THE END OF THE INITIAL TERM; SAID LEASE AGREEMENT SUBJECT TO PENDING FEDERAL COMMUNICATIONS COMMISSION (FCC) SITE APPROVAL; AND FURTHER AUTHORIZING THE ADMINISTRATION AND THE CITY ATTORNEY'S OFFICE TO NEGOTIATE SAID LEASE AGREEMENT WITH SENIOR CITIZENS HOUSING DEVELOPMENT CORPORATION OF MIAMI BEACH AND AUTHORIZING THE MAYOR AND CITY CLERK TO EXECUTE SAME.

WHEREAS, the City requires a new south end radio/antenna site that is compatible with the requirements for the new public safety communication system; and

WHEREAS, the only site which fits the City's requirements for such a radio/antenna site is the Council Towers North, located at 1040 Collins Avenue, Miami Beach, FL; and

WHEREAS, the radio/antenna site will require the lease of the rooftop of the Council Towers North for the purpose of constructing a south end radio/antenna site to house the City's public safety communication system; and

WHEREAS, the City is negotiating a Lease Agreement with the Senior Citizens Housing Development Corporation of Miami Beach, as the owner of Council Towers North, and have reached agreement on the substantive business terms as follows: a Lease Agreement for the rooftop, at the rate of \$12,000.000 per year for FY 2003-2004, including annual increases of 3% or based on the Consumer Price Index, all urban consumers (CPI-U), whichever is less; with the entire rent to be waived if conditions of the Use Agreement between the City and Senior Citizens Housing Development Corporation of Miami Beach, as approved pursuant to Resolution No. _____; said lease having an initial term of ten (10) years, with a ten (10) year renewable option at the end of the initial term; said Lease Agreement further subject to pending Federal Communications Commission (FCC) site approval; and

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Date 11-25-03

WHEREAS, parking fees for users of the Council Towers properties that were approved by the Mayor and City Commission, via Resolution No. 2000-24129, adopted on October 18, 2000, which were never instituted and have been held in abeyance since that time, are proposed to continue to be held in abeyance during the term of this Lease, however, in the event of an early termination, or at the end of the current Lease term, or if the Lease Agreement is not consummated, said increase in parking fees will be immediately implemented; and

WHEREAS, the aforementioned Lease terms and conditions are subject to the City: supplying an engineering study to confirm that the roof can support the proposed equipment; obtaining and providing appropriate liability insurance; securing all necessary approvals from the Federal Communications Commission (FCC); and assuming all costs for electricity and maintenance of its equipment/facilities.

NOW, THEREFORE, BE IT DULY RESOLVED BY THE MAYOR AND CITY COMMISSION OF THE CITY OF MIAMI BEACH, FLORIDA, that the Mayor and City Commission, approve the business terms of a Lease Agreement with the Senior Citizens Housing Development Corporation of Miami Beach, as Lessor, for the lease of the rooftop, located at 1040 Avenue, Miami Beach, Florida, for the purpose of constructing a south end radio/antenna site to house the City's public safety communications system; said Lease Agreement, at the rate of \$12,000.00 per year, for FY2003-2004; including annual increases of 3% or the CPI-U, whichever is less; with the entire rent to be waived if conditions of the Use Agreement between the City and Senior Citizens Housing Development Corporation of Miami Beach, as approved pursuant to Resolution No. _____ are in force; said Lease having an initial term of ten (10) years, with a ten (10) year renewable option, at the end of the initial term; said Lease Agreement subject to pending Federal Communications Commission (FCC) site approval; and further authorize the Administration and the City Attorney's Office to negotiate said Lease Agreement, substantially in accordance with the business terms outlined above, with the Senior Citizens Housing Development Corporation of Miami Beach and authorize the Mayor and City Clerk to execute said Lease Agreement.

PASSED and ADOPTED this ____ day of November, 2003.

MAYOR

ATTEST:

CITY CLERK

**APPROVED AS TO
FORM & LANGUAGE
& FOR EXECUTION**

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City Attorney

11/20/03

Date

RESOLUTION NO. _____

A RESOLUTION OF THE MAYOR AND CITY COMMISSION OF THE CITY OF MIAMI BEACH, FLORIDA, APPROVING THE BUSINESS TERMS OF A USE AGREEMENT WITH THE SENIOR CITIZENS HOUSING DEVELOPMENT CORPORATION OF MIAMI BEACH FOR THE USE OF PORTIONS OF THE CITY-OWNED PARKING LOTS LOCATED AT 540 COLLINS AVENUE (BENEATH COUNCIL TOWERS SOUTH) AND 1040 COLLINS AVENUE (BENEATH COUNCIL TOWERS NORTH), MIAMI BEACH, FLORIDA, TO ALLOW FOR THE INSTALLATION OF A SECURITY GATE AND FENCE AND PROVIDE LANDSCAPING AND MAINTENANCE RELATED TO SAME, AND INSURANCE AND INDEMNITY COVERING THE USE AREA; SAID USE AGREEMENT FOR AN INITIAL TERM OF TEN (10) YEARS, WITH A TEN (10) YEAR RENEWABLE OPTION; AND FURTHER AUTHORIZING THE ADMINISTRATION AND THE CITY ATTORNEY'S OFFICE TO FINALIZE SAID USE AGREEMENT WITH THE SENIOR CITIZENS HOUSING DEVELOPMENT CORPORATION OF MIAMI BEACH, AND AUTHORIZING THE MAYOR AND CITY CLERK TO EXECUTE SAME.

WHEREAS, the City requires a new south end radio/antenna site that is compatible with the requirements for the new public safety communication system; and

WHEREAS, the only site which fits the City's requirements for such a radio/antenna site is the Council Towers North, located at 1040 Collins Avenue, Miami Beach, Florida; and

WHEREAS, the radio/antenna site will require a Use Agreement for the installation of a security gate and fence and to provide for landscaping and maintenance related to same; and

WHEREAS, the City is negotiating a Use Agreement with the Senior Citizens Housing Development Corporation of Miami Beach, as the owner of Council Towers North, and has reached agreement on the substantive business terms as follows: a Use Agreement for use of portions of the City-owned parking lots located at 540 Collins Avenue (beneath Council Towers South), and 1040 Collins Avenue (beneath Council Towers North), for an initial term of ten (10) years, with a ten (10) year renewable option at the end of the initial term; and

WHEREAS, the Use Agreement will also provide for the proper insurance and hold harmless provisions.

NOW, THEREFORE, BE IT DULY RESOLVED BY THE MAYOR AND CITY COMMISSION OF THE CITY OF MIAMI BEACH, FLORIDA, that the Mayor and City Commission, approve the business terms of a Use Agreement with the Senior Citizens Housing Development Corporation of Miami Beach for use of portions of the City-owned parking lots located at 540 Collins Avenue (beneath Council Towers South) and 1040 Collins Avenue (beneath Council Towers North), to allow for the installation of a security gate and fence and provide landscaping and maintenance related to same, and insurance and indemnity covering the use area; said Use Agreement, for an initial term

of ten (10) years, with a ten (10) year renewable option; and further authorize the Administration and the City Attorney's Office to finalize said Use Agreement, substantially in accordance with the business terms outlined above, with the Senior Citizens Housing Development Corporation of Miami Beach, and authorizing the Mayor and City Clerk to execute said Lease Agreement.

PASSED and ADOPTED this ____ day of November, 2003.

MAYOR

ATTEST:

CITY CLERK

**APPROVED AS TO
FORM & LANGUAGE
& FOR EXECUTION**

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City Attorney

11/2/03

Date

RESOLUTION NO. _____

A RESOLUTION OF THE MAYOR AND CITY COMMISSION OF THE CITY OF MIAMI BEACH, FLORIDA AUTHORIZING THE MAYOR AND CITY CLERK TO EXECUTE THE LETTER OF INTENT NEGOTIATED BETWEEN THE CITY OF MIAMI BEACH, THE MIAMI BEACH REDEVELOPMENT AGENCY AND RDP ROYAL PALM HOTEL LIMITED PARTNERSHIP ("RDP") AND FURTHER AUTHORIZING THE PREPARATION OF THE CLOSING DOCUMENTS TO REFLECT THE TERMS OUTLINED IN THE LETTER OF INTENT.

WHEREAS, over the past year, the Administration, and the Commission liaison(s) (initially Commissioner Simon Cruz and presently Commissioner Jose Cruz), as appointed liaison by the Miami Beach Redevelopment Agency (RDA), the City Attorney and outside counsel, Joel Minsker, have met with Don Peebles and his representatives to address the outstanding issues in connection with the Royal Palm Crowne Plaza Hotel (RDP); and

WHEREAS, on November 13, 2002, the RDA Board discussed the progress of the negotiations, was provided a summary of the outstanding issues at that time and on April 30, 2003, the RDA Board considered approval of a Letter of Intent ("LOI") subject to certain amendments which were not accepted by Don Peebles; and

WHEREAS, on June 11, 2003, the RDA Board directed the Manager, with Commissioner Jose Smith as liaison, to continue negotiations subject to certain guidance; and

WHEREAS, the LOI addresses: 1) Back Rent/Environmental Delay Claim/Sales Taxes; 2) Future Rental, and Repayment of the Return, Conditions upon Sale of the Hotel and Extension of the Fixed Expiration Date and Mandatory Purchase; 3) Conversion of the Shorecrest Hotel to condominium/hotel/timeshare upon payment of the Purchase Price in full, (i.e. \$10,000,000 plus the annual return); 4) amending the Convention Center Agreement to reduce the Room Block requirement, as defined, from 350 rooms to 257 rooms per day, as the Royal Palm contains 257 rooms; 5) Refinancing; 6) FFE Reserve; 7) Amendment to Lease Agreement regarding Town Park as Hotel Manager; 8) Outstanding Disputes; 9) Restaurant Agreement; 10) Release of all Claims by RDP, RDA and City of Miami Beach; 11) Amendments to the Garage Easement Agreement to eliminate the payment of a Use Fee from RDP to Agency and a Facility Usage Payment from Agency to RDP annually, deleting the provision that requires RDP's approval of the garage operator, and defining the Self Park Rate; 12) Beach Concession Agreement; 13) Attorneys Fees; 14) Special Indemnification; 15) Termination; and 16) providing the Recognized Mortgage consent letter to be provided within 30 days of execution of the LOI; and

WHEREAS, on November 18, 2003 the RDA/City received a letter from Union Planters withdrawing its August 8, 2003 Letter to RDP Royal Palm Hotel Limited Partnership; and

Agenda Item R7B
Date 11-25-03

WHEREAS, based upon the resolution of all outstanding claims and issues, pending the settlement with Clark Construction, and the agreement to allow the conversion of the Shorecrest Hotel to a condominium/hotel/timeshare, only upon payment in full of the Purchase Price, it is recommended the Chairman and Members of the Board adopt the attached resolution.

NOW, THEREFORE, BE IT DULY RESOLVED BY THE MAYOR AND MEMBERS OF THE MIAMI BEACH CITY COMMISSION, that the Mayor and City Commission hereby approve and authorize the Mayor and City Clerk to execute the Letter of Intent negotiated between the City of Miami Beach, the Miami Beach Redevelopment Agency and RDP Royal Palm Hotel Limited Partnership and further authorize the preparation of closing documents to reflect the terms outlined in the Letter of Intent.

PASSED and ADOPTED this ____ day of _____, 2003.

ATTEST:


MAYOR

CITY CLERK

JMG/CMC/rar

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**APPROVED AS TO
FORM & LANGUAGE
& FOR EXECUTION**

 11/24/03
City Attorney Date

RESOLUTION NO. _____

A RESOLUTION OF THE MAYOR AND CITY COMMISSION OF THE CITY OF MIAMI BEACH, FOLLOWING A DULY NOTICED PUBLIC HEARING ON NOVEMBER 25, 2003, AUTHORIZING AND APPROVING THE PROPOSED USES OF THE LOCAL LAW ENFORCEMENT BLOCK GRANT FUNDS, IN THE AMOUNT OF \$264,484.

WHEREAS, the City of Miami Beach has been awarded grant funds from the United States Department of Justice under the "Local Law Enforcement Block Grant" Program for program year 2004; and

WHEREAS, the total estimated funds for this Program are \$262,484, of which \$236,236 will be funded by the United States Department of Justice, and the remaining \$26,248 will be funded by the City; and

WHEREAS, the Mayor and City Commission approved the application and proposed uses of the Block Grant funds at its regular meeting of October 5, 2003, under Resolution No. 2003-25364; and

WHEREAS, under this Program, the City is seeking funds to enhance the Police Department's mission; and

WHEREAS, the grant funds will be used to fund special overtime projects, traditional law enforcement equipment, and un-met technology needs; and

WHEREAS, approximately \$85,000 will be used for overtime costs associated with direct impact and crime reduction initiatives, \$92,484 for "traditional" police equipment, and the remaining funds for enhancing the use of technology; and

WHEREAS, this is the eight year of funding under the Law Enforcement Block Grant Program. The Miami-Dade Criminal Justice Council, the designated Advisory Board for the Local Law Enforcement Block Grant Program, endorsed the proposed use of these funds; and

WHEREAS, one of the requirements of the Grant is that the City hold a public hearing for the purpose of providing an opportunity for members of the public to discuss and/or comment upon the proposed uses of the funds; said public hearing was duly held on November 25, 2003.

NOW, THEREFORE BE IT DULY RESOLVED BY THE MAYOR AND CITY COMMISSION OF THE CITY OF MIAMI BEACH, FLORIDA, that the Mayor and City Commission, following a duly noticed public hearing on November 25, 2003, herein approve and authorize the proposed uses of the Local Law Enforcement Block Grant Funds, in the amount of \$264,484.

PASSED AND ADOPTED this _____ day of _____, 2003.

Attested by:

MAYOR

CITY CLERK

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**APPROVED AS TO
FORM & LANGUAGE
& FOR EXECUTION**

Agenda Item R7C
Date 11-25-03

M. A. D. Sullivan 11-21-03
City Attorney RJA Date

OFFICE OF THE CITY ATTORNEY

City of Miami Beach

F L O R I D A



MURRAY H. DUBBIN
City Attorney

Telephone: (305) 673-7470
Telecopy: (305) 673-7002

COMMISSION MEMORANDUM

TO: Mayor David Dermer and
Members of the City Commission

DATE: November 25, 2003

FROM: Murray H. Dubbin
City Attorney *MH Dubbin*

**SUBJECT: R9F REGARDING CHARTER REVIEW BOARD'S PROPOSED
AMENDMENT TO THE CITY TO THE CITY CHARTER AND
RESOLUTIONS PROPOSING MARCH 9, 2004 CITY OF MIAMI
BEACH SPECIAL ELECTION.**

The Legal Department has drafted and submitted the proposed charter amendment in accordance with the action of the Charter Review Board. However, we have some concerns which are hereafter set forth. The proposed amendment to Section 1.03(c) of the City Charter will expand the current requirement for voter approval prior to any increase in Floor Area Ratio on all applicable properties within the City. This would affect settlements, including, but not limited to, those entered into pursuant to the Bert J. Harris, Jr. Private Property Rights Protection Act ("Harris Act")* and those in other cases which involve the effectuation of their terms through a development agreement. The proposed Charter Amendment would also affect the settlement of other litigation matters concerning civil rights claims against the City, takings or condemnation claims, and the transfer of development rights under current City Code provisions and those anticipated to be proposed by the Planning Department relative to historic districts.

* Assuming the Harris Act is ultimately upheld by the courts

MHD/DJT/bfg

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1700 Convention Center Drive -- Fourth Floor -- Miami Be

Agenda Item

R9F

Date

11-25-03

A. Proposed Ballot Question

AMENDING CHARTER SECTION 1.03(c) RE: VOTER APPROVAL PRIOR TO FLOOR AREA INCREASE

SHALL CHARTER SECTION 1.03(c) REQUIRING VOTER APPROVAL BEFORE FLOOR AREA RATIO MAY BE INCREASED ON PROPERTIES ADJACENT TO SPECIFIED WATERBODIES ("ATLANTIC OCEAN, GOVERNMENT CUT, INDIAN CREEK, OR BISCAYNE BAY") BE AMENDED TO DELETE LANGUAGE REFERENCING SUCH WATERBODIES, THEREBY EXPANDING THE REQUIREMENT OF VOTER APPROVAL TO ALL APPLICABLE PROPERTY WITHIN CITY LIMITS; EXEMPTING DIVISION OF LOTS, OR THE AGGREGATION OF DEVELOPMENT RIGHTS ON UNIFIED ABUTTING PARCELS (OTHERWISE PERMITTED BY ORDINANCE), AND CERTAIN SETTLEMENTS OR DEVELOPMENT AGREEMENTS.

_____ YES

_____ NO

B. Proposed Text

City Charter Section 1.03(c).

(c) The floor area ratio of any property or street end within the City of Miami Beach ~~adjacent to the Atlantic Ocean, Government Cut, Indian Creek or Biscayne Bay~~ shall not be increased by zoning, transfer, or any other means from its current zoned floor area ratio as it exists on the date of adoption of this Charter Amendment [November 7, 2001], including any limitations on floor area ratios which are in effect by virtue of development agreements through the full term of such agreements, unless any such increase in zoned floor area ratio for any such property shall first be approved by a vote of the electors of the City of Miami Beach. This provision shall not preclude or otherwise affect the division of lots, or the aggregation of development rights on unified abutting parcels, as may be permitted by ordinance. In addition, this provision shall not apply to settlements entered into pursuant to the Bert J. Harris, Jr. Private Property Rights Protection Act or to development agreements entered into pursuant to the Florida Local Government Development Agreement Act. This Charter Amendment shall become effective on the day after its approval by the voters of the City of Miami Beach. No rights in derogation of the provisions of this Amendment under any ordinance or any other action of the Miami Beach City Commission between the time this measure is approved by the Miami Beach City Commission for placement on ~~the November 6, 2001~~ a ballot and the adoption of this Amendment shall be enforced against the City of Miami Beach.

* * *

RESOLUTION NO. _____

A RESOLUTION OF THE CHAIRMAN AND MEMBERS OF THE MIAMI BEACH REDEVELOPMENT AGENCY AUTHORIZING THE CHAIRMAN AND SECRETARY TO EXECUTE THE LETTER OF INTENT NEGOTIATED BETWEEN THE CITY OF MIAMI BEACH, THE MIAMI BEACH REDEVELOPMENT AGENCY AND RDP ROYAL PALM HOTEL LIMITED PARTNERSHIP ("RDP") AND FURTHER AUTHORIZING THE PREPARATION OF THE CLOSING DOCUMENTS TO REFLECT THE TERMS OUTLINED IN THE LETTER OF INTENT.

WHEREAS, over the past year, the Administration, and the Commission liaison(s) (initially Commissioner Simon Cruz and presently Commissioner Jose Cruz), as appointed liaison by the Miami Beach Redevelopment Agency (RDA), the City Attorney and outside counsel, Joel Minsker, have met with Don Peebles and his representatives to address the outstanding issues in connection with the Royal Palm Crowne Plaza Hotel (RDP); and

WHEREAS, on November 13, 2002, the RDA Board discussed the progress of the negotiations, was provided a summary of the outstanding issues at that time and on April 30, 2003, the RDA Board considered approval of a Letter of Intent ("LOI") subject to certain amendments which were not accepted by Don Peebles; and

WHEREAS, on June 11, 2003, the RDA Board directed the Manager, with Commissioner Jose Smith as liaison, to continue negotiations subject to certain guidance; and

WHEREAS, the LOI addresses: 1) Back Rent/Environmental Delay Claim/Sales Taxes; 2) Future Rental, and Repayment of the Return, Conditions upon Sale of the Hotel and Extension of the Fixed Expiration Date and Mandatory Purchase; 3) Conversion of the Shorecrest Hotel to condominium/hotel/timeshare upon payment of the Purchase Price in full, (i.e. \$10,000,000 plus the annual return); 4) amending the Convention Center Agreement to reduce the Room Block requirement, as defined, from 350 rooms to 257 rooms per day, as the Royal Palm contains 257 rooms; 5) Refinancing; 6) FFE Reserve; 7) Amendment to Lease Agreement regarding Town Park as Hotel Manager; 8) Outstanding Disputes; 9) Restaurant Agreement; 10) Release of all Claims by RDP, RDA and City of Miami Beach; 11) Amendments to the Garage Easement Agreement to eliminate the payment of a Use Fee from RDP to Agency and a Facility Usage Payment from Agency to RDP annually, deleting the provision that requires RDP's approval of the garage operator, and defining the Self Park Rate; 12) Beach Concession Agreement; 13) Attorneys Fees; 14) Special Indemnification; 15) Termination; and 16) providing the Recognized Mortgage consent letter to be provided within 30 days of execution of the LOI; and

WHEREAS, on November 18, 2003 the RDA/City received a letter from Union Planters withdrawing its August 8, 2003 Letter to RDP Royal Palm Hotel Limited Partnership; and

Agenda Item 3B
Date 11-25-03

WHEREAS, based upon the resolution of all outstanding claims and issues, pending the settlement with Clark Construction, and the agreement to allow the conversion of the Shorecrest Hotel to a condominium/hotel/timeshare, only upon payment in full of the Purchase Price, it is recommended the Chairman and Members of the Board adopt this Resolution.

NOW, THEREFORE, BE IT DULY RESOLVED BY THE CHAIRMAN AND MEMBERS OF THE MIAMI BEACH REDEVELOPMENT AGENCY, that the Chairman and Members herein approve and authorize the Chairman and Secretary to execute the Letter of Intent negotiated between the City of Miami Beach, the Miami Beach Redevelopment Agency and RDP Royal Palm Hotel Limited Partnership, and further authorize the preparation of closing documents to reflect the terms outlined in the Letter of Intent.

PASSED and ADOPTED this ____ day of _____, 2003.

ATTEST:

CHAIRMAN

SECRETARY

JMG/CMC/rar

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**APPROVED AS TO
FORM & LANGUAGE
& FOR EXECUTION**

Diana P. [Signature] 11/20/03
Redevelopment Agency Date
General Counsel *[Signature]*